

1 JaVonne M. Phillips, Esq., SBN 187474
2 Kristin A. Schuler-Hintz, Esq., SBN 207989
3 **McCarthy & Holthus, LLP**
4 1770 Fourth Avenue
5 San Diego, CA 92101
6 Phone (619) 685-4800
7 Fax (619) 685-4810

8 Attorney for: Secured Creditor,
9 Deutsche Bank National Trust Company as Trustee under Pooling and Servicing Agreement
10 dated as of March 1, 2007 Securitized Asset Backed Receivables LLC Trust 2007-BR1
11 Mortgage Pass-Through Certificates Series 2007-BR1, its assignees and/or successors and the
12 servicing agent Barclays Capital Real Estate Inc. dba HomeEq Servicing

13 UNITED STATES BANKRUPTCY COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 OAKLAND DIVISION

16 In re:) Case No. 08-46410 N
17)
18 Richard Lawrence Gifford,) Chapter 13
19)
20 Valerie Faye Gifford,) RS No. KSH-2666
21)
22) **MOTION FOR RELIEF FROM**
23) **AUTOMATIC STAY**
24)
25 Debtors.) Date: 04/29/09
26) Time: 10:30 am
27) Ctrm: 220
28) Place: 1300 Clay Street
29) Oakland, CA
30)
31)
32)
33)
34)
35)

36 DEUTSCHE BANK NATIONAL TRUST COMPANY AS TRUSTEE, its assignees
37 and/or successors in interest ("Secured Creditor" or "Movant" herein), moves this Court for an
38 Order Terminating the Automatic Stay of 11 U.S.C. § 362 as to moving party (and the Trustee
39 under the Deed of Trust securing moving party's claim) so that moving party and its Trustee may

1 commence and continue all acts necessary to foreclose under the Deed of Trust secured by the
2 Debtors' property, commonly known as 1417 Mellisa Circle, Antioch, CA 94509, ("Property"
3 herein).

4 As stated in the attached Declaration, the Debtors have failed to make 4 post-petition
5 payments (12/08 through 3/09).

6 Based on the foregoing, Secured Creditor alleges that Secured Creditor is not adequately
7 protected. Secured Creditor is not receiving regular monthly payments, and is unfairly delayed
8 from proceeding with the foreclosure of the subject Property. Accordingly, relief from the
9 automatic stay should be granted to Secured Creditor pursuant to 11 U.S.C. § 362(d)(1) and (2).

10 WHEREFORE, Secured Creditor prays for judgment as follows:

- 11 1. For an Order granting relief from the automatic stay, permitting Secured Creditor to
12 proceed with the foreclosure under Secured Creditor's Deed of Trust, and to sell the
13 subject Property at a trustee's sale under the terms of the Deed of Trust to proceed
14 with any and all post foreclosure sale remedies, including the unlawful detainer action
15 or any other action necessary to obtain possession of the Property.
- 16 2. For an Order that the ten day stay described by Bankruptcy Rule 4001(a)(3) be
17 waived.
- 18 3. For an Order modifying the automatic stay to protect Secured Creditor's interest, as
19 the Court deems proper.
- 20 4. For attorneys' fees and costs incurred herein.
- 21 5. For such other relief as the Court deems proper.

22 Dated: April 2, 2009

McCarthy & Holthus, LLP

23
24 By: /s/ Kristin A. Schuler-Hintz, Esq.
25 Kristin A. Schuler-Hintz, Esq.
26 Attorneys for Secured Creditor
27
28
29